

# TENNESSEE REGULATORY AUTHORITY



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460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

T.R.A. DOCKET ROOM

Pat Miller, Chairman  
Deborah Taylor Tate, Director  
Sara Kyle, Director  
Ron Jones, Director

## MEMORANDUM

TO: Director Deborah Taylor Tate  
Director Sara Kyle  
Director Ron Jones

FROM: Eddie Roberson, Chief, Consumer Services and External Affairs Division  
Edwin Mimms, Manager, Do Not Call Program *[Signature]*  
Jean Stone, Counsel *[Signature]*

DATE: August 13, 2004

SUBJECT: Settlement with The Price Group d/b/a Jack Price Sports (Docket No. 04-00188)

Attached is a Settlement Agreement between the Consumer Services and External Affairs Division ("Staff") and The Price Group d/b/a Jack Price Sports ("Jack Price") for violations of the Tennessee Do-Not-Call Telephone Solicitation statute, Tenn. Code Ann. §65-4-401 *et seq.*

Eight (8) complaints alleging eight (8) separate violations have been registered against Jack Price with the Authority alleging that the company violated TCA §65-4-401 *et seq.* The complaints were registered with the Authority between March 2, 2004 and March 9, 2004. At the time of the complaints, Jack Price was not registered with the Authority as a solicitor. This Settlement requires Jack Price to make a payment of \$12,000 to the Authority along with assurances that it will fully comply with applicable state law. The terms of this Settlement require Jack Price to pay the first installment of \$10,000 to the Authority no later than thirty (30) days following the Authority's ratification of the Settlement Agreement with the remaining \$2,000 be paid no later than sixty (60) days following approval of the Settlement Agreement. A designated representative for Jack Price will be available telephonically or in person for the Conference to answer any questions you may have.

Considering all relevant facts, the Staff believes the terms of this Settlement are fair and reasonable and should have the result of no further telephone solicitation complaints being filed against Jack Price. Staff submits the attached Settlement Agreement for your deliberation at the August 30, 2004 Authority Conference.

cc: Chairman Pat Miller  
H. LaDon (Don) Baltimore, Counsel for The Price Group  
Richard Collier, General Counsel

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

IN RE:	)		
	)		
ALLEGED VIOLATIONS OF TENN.	)		
CODE ANN. §65-4-401 <i>et seq.</i> , DO-NOT-	)	DOCKET NO.	04-00188
CALL SALES SOLICITATION LAW,	)		
AND RULES OF TENNESSEE	)	DO-NOT-CALL	T04-00067
REGULATORY AUTHORITY,	)	PROGRAM	T04-00068
CHAPTER 1220-4-11, BY:	)	FILE NUMBERS	T04-00069
	)		T04-00070
THE PRICE GROUP	)		T04-00071
D/B/A JACK PRICE SPORTS	)		T04-00077
	)		T04-00078
	)		T04-00089

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement has been entered into between the Consumer Services Division (“CSD”) of the Tennessee Regulatory Authority (“TRA”) The Price Group d/b/a Jack Price Sports (“Jack Price”). This Settlement Agreement pertains to eight (8) complaints received by the CSD from March 2, 2004 through March 9, 2004 alleging that Jack Price violated the Tennessee Do-Not-Call Telephone Solicitation law, TENN. CODE ANN. § 65-4-401 *et seq.*, and its concomitant regulations, TENN. COMP. R. & REGS. 1220-4-11-.07, and the failure of Jack Price to register in the Do-Not-Call Program pursuant to TENN. CODE ANN. § 65-4-405(d), and its concomitant regulations,

TENN. COMP. R. & REGS. 1220-4-11-.04. This Settlement Agreement is subject to the approval of the Directors of the TRA.

The CSD's investigation in this docket commenced after it received three complaints (TRA File Nos. T04-00067, T04-00068 and T04-00069) on March 2, 2004. It is alleged by the complainants in TRA File Nos. T04-00067 and T04-00069 that they each received an unlawful telephone solicitation from Jack Price on February 25, 2004. In TRA File No. T04-00068, the complainant alleged receipt of the unlawful telephone solicitation from Jack Price on February 27, 2004. Each complainant is a person whose residential telephone number is properly listed on the Do-Not-Call register. The CSD sent notice of these three complaints to Jack Price on March 8, 2004.

The CSD received a complaint in TRA File No. T04-00070 on March 8, 2004, in which the complainant alleged he received an unlawful telephone solicitation from Jack Price on March 3, 2004. The CSD received a complaint in TRA File No. T04-00071 on March 4, 2004, in which the complainant alleged receipt of an unlawful telephone solicitation from Jack Price on February 26, 2004. Each complainant is a person whose residential telephone number is properly listed on the Do-Not-Call register. The CSD also provided Jack Price with notice of these two complaints on March 8, 2004.

The CSD received a complaint in TRA File No. T04-00077 on March 9, 2004, in which the complainant alleged that he received an unlawful telephone solicitation from Jack Price on February 26, 2004. In TRA File No. T04-00078, the CSD received a complaint on March 8, 2004 alleging receipt of an unlawful telephone solicitation from

Jack Price on March 3, 2004. Each complainant is a person whose residential telephone number is properly listed on the Do-Not-Call register. The CSD provided Jack Price with notice of these two complaints on March 10, 2004.

The CSD received the last complaint (TRA File No. T04-00089) on March 9, 2004. It is alleged by the complainant that she received an unlawful telephone solicitation from Jack Price on March 3, 2004. The complainant is a person whose residential telephone number is properly listed on the Do-Not-Call register. The CSD provided notice of this complaint to Jack Price's counsel on May 5, 2004.

TENN. CODE ANN. § 65-4-404 and TENN. COMP. R. & REGS. 1220-4-11-.07(1) prohibit persons from knowingly making or causing to be made telephone sales solicitation calls to residential subscribers in this state who have given timely and proper notice to the TRA of their objection to receiving telephone solicitations. TENN. CODE ANN. § 65-4-405(d) and TENN. COMP. R. & REGS. 1220-4-11-.04 require persons or entities desiring to make telephone solicitations to residential subscribers to register with the TRA. TENN. CODE ANN. § 65-4-405(f) authorizes the TRA to assess penalties for violations of the Tennessee Do-Not-Call statutes, including the issuance of a cease and desist order and the imposition of a civil penalty of up to a maximum of two thousand dollars (\$2,000) for each knowing violation. The maximum fine faced by Jack Price in this proceeding is eighteen thousand dollars (\$18,000), arising from the eight (8) unsolicited telephone solicitations mentioned above and the failure to register as a solicitor with the TRA.

In negotiating this Settlement Agreement, CSD relied upon the factors stated in TENN. CODE ANN. § 65-4-116(b), including the Company's size, financial status, good faith, and the gravity of the violation. Jack Price is located in Irvine, California and has approximately seventeen (17) seasonal and full-time employees. After receiving notice of the complaints, Jack Price contacted the CSD and expressed an interest in resolving this matter. The CSD has received no additional complaints against Jack Price from Tennessee consumers since March 9, 2004.

In an effort to resolve the alleged violations revealed during the CSD's investigation, including the complaints represented by the file numbers captioned above and other complaints whether known or unknown by the CSD prior to the execution of this Settlement Agreement, the CSD and Jack Price agree to settle this matter based upon the following acknowledgements and terms, subject to approval by the Directors of the TRA:

1. Jack Price admits that the complaints against it are true and valid complaints and that it acted in violation of TENN. CODE ANN. § 65-4-404 and TENN. COMP. R. & REGS. 1220-4-11-.07(1), and TENN. CODE ANN. § 65-4-405(d) and TENN. COMP. R. & REGS. 1220-4-11-.04.
2. After receiving notice of the complaints, Jack Price contacted CSD and expressed an interest in resolving this matter.

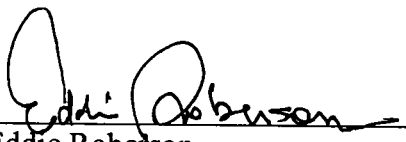
3. Jack Price agrees to pay twelve thousand dollars (\$12,000.00) in full settlement of all violations and complaints, whether known or unknown by the CSD prior to the execution of this Settlement Agreement. The first installment of \$10,000 will be remitted to the Office of the Chairman of the TRA no later than thirty (30) days following approval of the Settlement Agreement by the TRA Directors.<sup>1</sup> The remaining \$2,000 shall be remitted to the TRA no later than sixty (60) days following approval of the Settlement Agreement by the TRA Directors. Upon payment of the amount of twelve thousand dollars (\$12,000.00) in compliance with the terms and conditions of this Settlement Agreement, Jack Price is excused from further proceedings in this matter.
4. Jack Price agrees to comply with all provisions of the Tennessee Do-Not-Call Telephone Sales Solicitation law and regulations.
5. Jack Price agrees that a designated representative will participate telephonically or in person at the Authority Conference during which the Directors consider this Settlement Agreement.
6. In the event that Jack Price fails to comply with the terms and conditions of this Settlement Agreement, the Authority reserves the right to re-open this docket. Jack Price shall pay any and all costs incurred by the TRA in enforcing the Settlement Agreement. Should any violation of the provisions of paragraph 4 occur subsequent

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<sup>1</sup> The payment may be made in the form of a check, payable to the Tennessee Regulatory Authority, sent to 460 James Robertson Parkway, Nashville, Tennessee 37243, referencing TRA Docket Number 04-00188

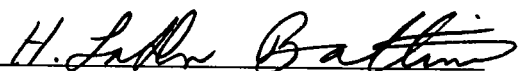
to the date of this Settlement Agreement, such violation shall be treated as a new violation and shall not be deemed cause to re-open this docket.

7. If any clause, provision or section of this Settlement Agreement for any reason is held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability, shall not affect any other clause, provision or section of this Settlement Agreement and this Settlement Agreement shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.
8. This Settlement Agreement represents the entire agreement between the parties, and there are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Settlement Agreement which are not fully expressed herein or attached hereto.

  
Eddie Roberson  
Chief, Consumer Services Division  
Tennessee Regulatory Authority

8/12/04  
Date

The Price Group d/b/a Jack Price Sports

By 

H. LaDon (Don) Baltimore

Legal Counsel for The Price Group d/b/a  
Jack Prices Sports

8/10/2004  
Date